

## 7A Am. Jur. 2d Automobiles § 85

American Jurisprudence, Second Edition | November 2021 Update

### Automobiles and Highway Traffic

Barbara J. Van Arsdale, J.D.; Keith A. Braswell, J.D., of the staff of the National Legal Research Group, Inc.; George Blum, J.D.; John Bourdeau, J.D.; Paul M. Coltoff, J.D.; John A. Gebauer, J.D.; Noah J. Gordon, J.D.; Mary Babb Morris, J.D., of the staff of the National Legal Research Group, Inc.; Karl Oakes, J.D.; and Eric C. Surette, J.D.

### III. Licensing, Taxation, and Registration

#### A. Vehicles

##### 5. Types of Vehicles Taxed; Exemptions and Definitions

## § 85. Motor carriers

[Topic Summary](#) | [Correlation Table](#) | [References](#)

#### West's Key Number Digest

West's Key Number Digest, [Automobiles](#)  37, 76, 77

Licensing or registration enactments frequently are made applicable to motor carriers—that is, to vehicles operated for compensation or for hire—and the problem occasionally arises as to what vehicles are included within such provisions. Where a company transacts business in which trucks are used in delivering goods to customers without any direct charge for transportation, the cost of which is added to the overhead cost of the business, such transactions are not subject to a licensing or registration enactment intended to apply only to those who transport “for compensation.”<sup>1</sup> However, transactions in which a company delivering goods to customers makes a direct charge to them for the cost of transportation are within the contemplation of such a statute.<sup>2</sup> A motor carrier licensing statute is applicable to a business that transports its customers' waste materials to landfills for disposal, despite the carrier's claim that collection is its primary business, and that the transportation is merely incidental to its collection activities.<sup>3</sup>

An ordinance imposing a license fee upon persons operating motor trucks “for hire or compensation” on city streets does not to impose such a fee with respect to trucks operated by a chain grocery concern merely in delivering stock to local stores from its warehouse in another city, and not transporting freight for others.<sup>4</sup>

The existence of an adequate and satisfactory service by motor carriers already in the area completely negates the public need and demand for added service by another carrier.<sup>5</sup> However, proof of adequate market service does not generally bar entry of new applicants for a common carrier certificate of public convenience.<sup>6</sup>

Footnotes

1      Collins-Dietz-Morris Co. v. State Corp. Com'n, 1931 OK 301, 154 Okla. 121, 7 P.2d 123, 80 A.L.R. 561 (1931).

2      Collins-Dietz-Morris Co. v. State Corp. Com'n, 1931 OK 301, 154 Okla. 121, 7 P.2d 123, 80 A.L.R. 561 (1931).

3      Browning-Ferris, Inc. v. Com., 225 Va. 157, 300 S.E.2d 603 (1983).

4      Kroger Grocery & Baking Co. v. City of Cynthiana, 240 Ky. 701, 42 S.W.2d 904 (1931).

5      Application of Nebraskaland Leasing & Associates, 254 Neb. 583, 578 N.W.2d 28 (1998).

As to certificates of public convenience and necessity for carriers, generally, see Am. Jur. 2d, Carriers §§ 112 to 129.

6      Capital City Cab Service v. Pennsylvania Public Utility Com'n, 138 A.3d 119 (Pa. Commw. Ct. 2016), appeal denied, 2016 WL 7407489 (Pa. 2016).

---

End of Document

© 2021 Thomson Reuters. No claim to original U.S. Government Works.